

1 to Trooper Layton's right just on the travel lane's  
2 side of the shoulder line.

3 (Video played.)

4 THE DEPONENT: At 4:57, Layton says, "Put  
5 your hands up."

6 (Video played.)

7 THE DEPONENT: Trooper Layton says, "Let  
8 me see your hands." Bone says, "Put your hands up."

9 BY MS. ASKEW:

10 Q. Does that appear to you, in this video,  
11 that there's an overlap with both of them saying  
12 something at the same time?

13 A. They were clearly distinct and separate,  
14 but very close together.

15 Q. Okay. Go ahead.

16 (Video played.)

17 BY MS. ASKEW:

18 Q. Do you hear Mr. Hill say, "My door  
19 doesn't open"?

20 A. Yes.

21 Q. And then, who is that speaking? This is  
22 at 5:01?

23 A. Correct, 5:01. I believe Bone just said,  
24 "Put your hands up." And then what's shown next here  
25 is, Mr. Hill says again, "My door doesn't open." I'll

1 play it and then pause it right after that.

2 (Video played.)

3 THE DEPONENT: He just said, "My door  
4 doesn't open." Trooper Layton is in the process of  
5 saying, "Put your hands out the door and do it now."

6 (Video played.)

7 THE DEPONENT: So, at 5:04, Trooper  
8 Layton just finished saying, "Put your hands out the  
9 door. Do it now."

10 (Video played.)

11 THE DEPONENT: At 5:05, Trooper Layton  
12 said, "Put your hands out the door."

13 (Video played.)

14 THE DEPONENT: At 5:06 changing over to  
15 5:07, Trooper Layton just said, "Put your hands out the  
16 door" again, and started to say, "Stop moving." So I'm  
17 at 5:07, and he just started to say -- that's Trooper  
18 Layton, started to say, "Stop moving."

19 (Video played.)

20 THE DEPONENT: At 5:09, the vehicle had  
21 passed between the trooper's vehicle, the trooper's and  
22 Mr. Hill's vehicle. Trooper Layton has said again  
23 clearly, "Put your hands out the door."

24 (Video played.)

25 THE DEPONENT: At 5:11, Trooper Layton

1 has now said, "Put your hands out the window."

2 (Video played.)

3 THE DEPONENT: At 5:12, Trooper Layton  
4 has again said, "Put your hands out the window." I'm  
5 sorry. At 5:12. Again, he just finished saying, "Put  
6 your hands out the window."

7 (Video played.)

8 THE DEPONENT: At 5:14, Trooper Layton  
9 just finished saying, "Hey, he's reaching, reaching,  
10 reaching" in an excited, elevated voice.

11 (Video played.)

12 THE DEPONENT: So, at 5:15, Trooper Bone  
13 just finished saying, "Stop reaching for the gun."

14 (Video played.)

15 THE DEPONENT: At 5:16, Trooper Layton  
16 just said, "He's got a gun." I think that's where the  
17 commands stop, and then the gunshots start.

18 MS. ASKEW: Okay.

19 (Whereupon, Deposition Exhibit No. 5 was  
20 marked.)

21 BY MS. ASKEW:

22 Q. Mr. Bartels, you cite that section in  
23 your report; do you not?

24 A. I do.

25 Q. So this is a statute you consulted in

1 preparing your report; is that correct?

2 A. Yes.

3 Q. Thank you. Let's go to page 11 of your  
4 report, Mr. Bartels.

5 A. Yes, ma'am.

6 Q. You indicated at the top, "The pursuit  
7 ended unexpectedly when the vehicle became immobilized  
8 after it slid down the embankment to trees. With the  
9 desperate suspect unable to flee in his vehicle, these  
10 circumstances are tense and uncertain, and rapidly  
11 evolving." Now, you would agree that the vehicle was  
12 immobilized; correct?

13 A. Yes.

14 Q. When you say "with the desperate suspect  
15 unable to flee in his vehicle," you'd agree he couldn't  
16 go anywhere in the vehicle?

17 A. Yes.

18 Q. At that point, can we look at what you  
19 teach your officers with reference to what they should  
20 do prior to using deadly force? At the point that  
21 Mr. Hill could not move his vehicle, could you tell us  
22 what you would teach your police officers before  
23 approach -- or what they should do prior to  
24 approaching? Or do you teach your police officers to  
25 do as what was done here and have the two troopers exit

1 the vehicle with their guns drawn?

2 A. We talk about different circumstances.  
3 In this particular case, it would be very common to  
4 exit your vehicle with your gun drawn.

5 Q. So you think that under these  
6 circumstances -- with the vehicle not being mobile and  
7 not going anywhere -- that it's reasonable for Trooper  
8 Layton and Trooper Bone to exit the vehicle and run  
9 towards the vehicle with their guns drawn?

10 MR. BROWN: Objection. Form.

11 THE DEPONENT: I did not see them  
12 running.

13 BY MS. ASKEW:

14 Q. Tell me what you saw.

15 A. I saw them approach the vehicle, but I  
16 didn't see them running.

17 Q. Okay. So approaching the vehicles with  
18 their guns drawn, is that what you would teach your  
19 police officers?

20 MR. BROWN: Objection. Form.

21 THE DEPONENT: We don't teach so much to  
22 specific circumstances. If we use a circumstance, it's  
23 usually kind of as a marker. We would use something  
24 obvious. Our obvious marker would be the type of a  
25 stop where a suspect pulls over on the side of the

1 road, like more people do, and how you can position  
2 your vehicle and approach from that point.

3 A variation might be, it's not uncommon  
4 to have an occupant of the vehicle run. So we might  
5 address that. Sometimes we'll address that if the  
6 suspect chooses the location of a stop, then you have  
7 to take what you get. Any deviation from what I would  
8 call the standard taught technique is up to the officer  
9 to make the tactical decision about whether to approach  
10 or stay behind cover. There isn't really anything in  
11 our training curriculum that instructs our officers to  
12 do only one thing in an unpredictable set of  
13 circumstances.

14 So, the only thing I would do, if I was  
15 going to debrief this, is I would ask the officers  
16 questions about, So when this happened, what were you  
17 thinking. I need to know what's going on in their mind  
18 in order to make sense of their decisions. If they  
19 say, well, he pulled over and we thought he was going  
20 to jump out the window and run, so we approached in  
21 case we were either going to engage in a foot pursuit,  
22 or we wanted to get out of the roadway, or we wanted to  
23 control them closer rather than from the travel lane --  
24 it's totally within their discretion. So, I would say,  
25 good. I just want to know your thought process.

1                   If there was an adjustment that we wanted  
2     to make, we would talk about it, but the chances they  
3     would have that set of circumstances again to implement  
4     a planned response to that exact set of circumstances  
5     is almost zero.

6     BY MS. ASKEW:

7                   Q.     So, when you're debriefing, is it not to  
8     be concerned about the loss of life?

9                   A.     Well, that's a concern on every call that  
10    we go on.

11                  Q.     So how do you know it wouldn't happen  
12    again?

13                  A.     I was talking about the circumstances --  
14    in other words, the set of the stop, the positioning of  
15    the vehicles.

16                  Q.     How do you know that?

17                  A.     Because, to have another circumstance  
18    exactly like that, it's like winning the lottery.

19                  Q.     How do you know that?

20                  A.     Statistically speaking.

21                  Q.     From what? What statistics are you  
22    looking at?

23                  A.     I worked in the police department for 20  
24    years. Not once have I ever seen the exact same use of  
25    force twice, ever.

1           Q.     Have you ever seen any situation like  
2 this in which you are called to become an expert  
3 witness? Have you ever seen any scenario like this one  
4 involving Trooper Bone and Mr. Hill?

5           A.     No.

6           Q.     So this was the first time you've seen  
7 anything like that?

8           A.     All of my cases were a first time.

9           Q.     All right. Trooper Bone indicated that  
10 when he exited the vehicle, that he did not believe  
11 that Mr. Hill was armed.

12                   MR. BROWN: Objection. Form.

13 BY MS. ASKEW:

14           Q.     Is that a factor in anything that you  
15 would -- does that have any impact on your opinion in  
16 this case?

17           A.     I was never given that information, but,  
18 no.

19           Q.     Were you aware also that Trooper Bone  
20 said that he and Trooper Layton had no discussion about  
21 a plan of action prior to exiting the vehicle with  
22 their guns drawn?

23           A.     That's not significant to me. But, no.

24           Q.     You didn't know that.

25           A.     I watched on the video. I didn't hear



1       them discussing anything.

2               Q.     You don't think that that is something  
3       that you would advise your officers, before exiting the  
4       vehicle, that they would have a plan of action?

5               A.     I think their plan of action comes off of  
6       their training and whatever happens at the end of the  
7       pursuit. They can't plan what to do at the end of the  
8       pursuit when they don't know how it's going to end.

9               Q.     What about before they exit the vehicle  
10      and drawing their weapons? Would you teach your police  
11      officers to do that?

12              MR. BROWN:  Objection.  Form.

13              THE DEPONENT:  Absolutely not.  It would  
14      take too much time.

15      BY MS. ASKEW:

16              Q.     Do you teach them to do that?

17              A.     No.

18              Q.     In your years of training and -- well,  
19      strike that.

20                     When you are teaching your officers about  
21      the use of force, was the first thing that you --  
22      what's the number one thing that you talk to them  
23      about?

24              A.     Are you referring to the presentation on  
25      day 1 of use of force, like the first slide or bit of

1 information I present, or what is the most --

2 Q. The number 1 thing -- the first thing you  
3 start with. When you talk to your officers in  
4 training, what's the first thing that you tell them?

5 A. I go over a couple of definitions with  
6 them so that when we're having our discussion and we're  
7 using a word or a phrase, they know what we're talking  
8 about.

9 Q. And what would that be?

10 A. We discuss deadly force definition,  
11 nondeadly force definition and objective  
12 reasonableness.

13 Q. And, do you -- strike that.

14 Is one of your teachings that the use of  
15 deadly force should only be exercised when it's  
16 immediately necessary to protect the officer or another  
17 person from the threat of death, or serious bodily  
18 injury? Is that basically the standard that you --

19 A. Yes.

20 Q. Do you also teach your officers that when  
21 they have a less-lethal option, to use that when it  
22 doesn't increase the risk to themselves or others?

23 A. That's going to be circumstance  
24 dependent. So if we are responding to an armed  
25 subject, a firearm less-lethal is off the table. If

1     they have some other object that they have to be within  
2     close range to use, our policy prohibits the deployment  
3     of less-lethal unless there's a support officer to  
4     provide lethal coverage. Of course, after that, it's  
5     totally circumstance dependent. So there's no  
6     instruction that you must try less-lethal before lethal  
7     because the circumstances would dictate which one is  
8     appropriate.

9             Q.     Do you teach your officers that they  
10     should attempt to use alternative means of apprehending  
11     or securing a suspect outside of using deadly force?

12            A.     Do you mean when deadly force would be  
13     justifiable?

14            Q.     Well, do you teach your officers to try  
15     to use other means other than deadly force? Do you  
16     teach your officers to come up with another means of  
17     approaching a situation to avoid using deadly force?

18                   MR. BROWN: Objection to form.

19                   THE DEPONENT: I would need to be  
20     circumstance specific on that. A lot of times the  
21     response is suspect-driven rather than officer-driven.  
22     I do emphasize to the officers that when it's  
23     suspect-driven, you pretty much have to do what you  
24     need to do.

25     BY MS. ASKEW:

1           Q.     Well, let me ask you this: With  
2 reference to this case -- Mr. Hill, Trooper Layton and  
3 Trooper Bone -- if they, as I had indicated to you, had  
4 hypothetically placed their vehicle on the left lane  
5 and had, in fact, used the vehicle for cover, called  
6 for backup and spoken to Mr. Hill from their covered  
7 position using the PA, and remained safe where they  
8 were, is that not a better alternative than what  
9 Trooper Layton and Trooper Bone did?

10               MR. BROWN: Objection. Form.

11               THE DEPONENT: I would say that is not a  
12 better option.

13 BY MS. ASKEW:

14           Q.     Why not?

15           A.     Because, regardless of being in the left  
16 lane, you're still in the travel lane of an interstate.  
17 It might look like it would be common sense to just  
18 safely go around to the right, but one of the things  
19 about police work that is unique is that officers get  
20 to see things that the average citizen doesn't get to  
21 see, which is why, in this particular case, I would not  
22 want them in the travel lane of the interstate. Too  
23 many troopers get hit on traffic stops, even off to the  
24 side on a shoulder. They're not even in the travel  
25 lane and they get hit.

1                   So, for a trooper to position their  
2 vehicle in the travel lane of an interstate at 4:30 in  
3 the morning when it's dark out, and then take cover at  
4 that vehicle, would be extremely dangerous.

5                   Q.     Do you see any other -- you're saying  
6 there's no other means of doing it other than what they  
7 did?

8                   A.     Any time an officer does something,  
9 there's always something else they could have done.  
10 That there was something else they could have done  
11 doesn't mean that that something else would be better.  
12 In many cases, even if it was, in hindsight -- with the  
13 amount of time they have to work with when they do the  
14 best that they can, we look favorably upon that.

15                  Q.     As a field officer, prior field officer  
16 and a person who trained field officers, did you  
17 believe that in the situation with Trooper Bone and  
18 Trooper Layton, that Trooper Bone had any  
19 responsibility in terms of helping or advising Trooper  
20 Layton?

21                  A.     With regards to what?

22                  Q.     With regards to his approach to the  
23 vehicle? With regards to the actual placement of the  
24 vehicle?

25                         MR. BROWN:  Objection.  Form.

1                   THE DEPONENT: I think it would be  
2 speculation, but I imagine if Trooper Bone wanted it  
3 moved, that he would have instructed Trooper Layton to  
4 do that, but I don't know.

5 BY MS. ASKEW:

6                   Q.     Would it be surprising for you that  
7 Trooper Bone said that he had nothing to do with it,  
8 that Trooper Layton was the driver, so he didn't have  
9 no say-so whatsoever about the placement of the  
10 vehicle?

11                  A.     No, that wouldn't surprise me because of  
12 the amount of time they were dealing with. The  
13 position of the vehicle at that point, even if I was a  
14 field training officer, even if it was remotely  
15 acceptable, and our primary concern is controlling the  
16 person in that vehicle, then I'm going to accept what  
17 my trainee does.

18                  Q.     And you'll agree with me that the vehicle  
19 wasn't going anywhere; correct?

20                         MR. BROWN: Objection. Form.

21                         THE DEPONENT: Ultimately, they learned  
22 that, yes.

23 BY MS. ASKEW:

24                   Q.     How long did it take? Do you know?

25                   A.     That would be speculation for me to try

1 to guess at what point they understood the vehicle was  
2 not able to move.

3 Q. At what point were you able to determine  
4 that?

5 A. I don't know that I necessarily, in  
6 watching the video, could factually determine that it  
7 couldn't move. I know that it didn't move. In looking  
8 at the pictures, we can see it appears to be stuck.  
9 Its tires are spinning. It looks like it's not moving.  
10 I would say, if there was a point in time, that would  
11 be it. When it was down the embankment, he attempted  
12 to accelerate, and the vehicle went nowhere, that would  
13 be the point that I would determine that the vehicle is  
14 likely immobile.

15 Q. You indicated then that -- or did you --  
16 that this was considered a high-risk stop?

17 A. Yes.

18 Q. And did you determine that the pursuit  
19 ended?

20 A. At a point, yes.

21 Q. At what point?

22 A. At the point that the vehicle appeared to  
23 be immobilized and it was unable to move. At that  
24 point, the vehicle pursuit could be considered over.

25 Q. And you do not -- in your opinion, you

1     said, "One method for conducting high-risk stops is  
2     where officers position their vehicle behind the  
3     vehicles -- the suspect vehicle. Stay behind the cover  
4     of the police vehicle with weapons drawn, and give the  
5     suspect verbal commands from that position of cover to  
6     control the stop from a distance."

7                     Now, tell me your experience when you say  
8     that -- your experience as an officer and the scenario  
9     where you have done that. What would you have trained  
10    your officers to do?

11                    A.     I have done -- I don't know how many  
12    high-risk stops, but enough of them. Fortunately for  
13    us, in the community that we were in, the vast majority  
14    -- almost every time that we did one, we would be  
15    behind the vehicle and be able to choose our own  
16    position. There are times when officers would come up  
17    the opposite direction, and they were -- what we would  
18    say "down range" of our stop, and we would direct them  
19    to move. So our experience in our environment was that  
20    the standard setup for a high-risk stop was fairly  
21    common for us.

22                    Q.     Using the method for the high-risk stop,  
23    the procedures where the officers position themselves  
24    behind the suspect -- behind the vehicle. They then  
25    stay covered behind the police vehicle with their



1 weapons drawn, and they give the suspect verbal  
2 commands from that position of cover to control the  
3 stop from a distance.

4 In your experience, over your years as an  
5 officer, has there ever been any fatalities of police  
6 officers, under those circumstances, that you're aware  
7 of?

8 A. In my department?

9 Q. That you're aware of, in your experience?

10 A. Not in my department, no.

11 Q. Okay. Now, you indicate that these --  
12 I'm sorry. It's page 11.

13 A. Yes, ma'am.

14 Q. You said that your techniques. "These  
15 techniques" -- well, let's back up. You said, "This  
16 response assumes that the vehicles are on a level  
17 surface ideally positioned in a well-lit area of the  
18 officer's choice. Backup is present. The suspect did  
19 not flee on foot, and the suspect complies with all  
20 verbal instructions."

21 Now, if the officer, Trooper, and Officer  
22 Layton, before they left their vehicle with their guns  
23 drawn, do you believe that it was prudent to call for  
24 backup before they did that?

25 A. Well, they had backup. Normally, they're

1 in single-officer units. So there were two officers  
2 already there.

3 Q. They were each other's backup?

4 A. Yes. Yes.

5 Q. Prior to Trooper Layton and Trooper Bone  
6 exiting the vehicle, is it your opinion that they were  
7 not in danger at that point, or were in danger at that  
8 point, before they exited the vehicle?

9 A. I would say they were in danger.

10 Q. They were? Before they exit the vehicle?

11 A. Yes.

12 Q. How come?

13 A. Because they were in the travel lane of  
14 the interstate, and there were cars coming up behind  
15 them that they passed when they were catching up to him  
16 and ultimately pursuing Mr. Hill.

17 Q. So, they were endangered by other  
18 vehicles?

19 A. Yes.

20 Q. And again, if they had pulled off of the  
21 travel lanes, would that eliminate the danger for them?

22 MR. BROWN: Objection to form.

23 THE DEPONENT: I see nowhere for them to  
24 do that.

25 BY MS. ASKEW:

1           Q.     You didn't see anywhere for them to --  
2     what about even on this side of the road over there, on  
3     the side there, off of the roadway?

4           A.     I think that --

5           Q.     They couldn't pull off their vehicle  
6     there? What's the problem with that one?

7           A.     They could, but that puts them further  
8     away from the suspect's vehicle and less able to see --  
9     more chance for Mr. Hill to escape. They'd have to  
10    cross both travel lanes. I don't know where the cars  
11    were but....

12          Q.     You're saying that Mr. Hill was going  
13    to -- there was concern about him getting out of the  
14    car and running?

15          A.     Most likely, yes.

16          Q.     Why is that?

17          A.     Every police officer has that concern at  
18    the end of a pursuit.

19          Q.     The car was immobile. Is there any  
20    gesture that he was getting out of the car to run?

21          A.     But that's why he would get out and  
22    run -- because the car is immobilized.

23          Q.     Is there any kind of indication here  
24    other than him trying to move the vehicle that he was  
25    going to get out the car and run?

1           A.     But you're suggesting that if they parked  
2 over here --

3           Q.     That's not my question. Now it's, do you  
4 have any indication from any evidence that you have  
5 seen, that Mr. Hill was attempting to get out of the  
6 car and run?

7           A.     And I am going to -- I don't mean to  
8 be --

9           Q.     Just on the evidence that you've seen.

10          A.     And I don't mean to be difficult, but in  
11 order to answer that question, it requires a little bit  
12 more. This is an ongoing event, so when they pull up,  
13 there's no indication immediately, but that indication  
14 could develop within a second.

15          Q.     So at that point, you're saying no.  
16 There's no indication?

17          A.     Correct.

18          Q.     Do you believe that when Trooper Bone and  
19 Trooper Layton then exited the vehicle, and they then  
20 moved towards Mr. Hill's, is it your opinion that that  
21 -- do you think that escalated a nondeadly situation  
22 into a deadly encounter?

23          A.     No.

24          Q.     You don't?

25          A.     No, I do not.

1 Q. Why not?

2 A. Because a police officer's lawful actions  
3 are just that. Their instructions for Mr. Hill were to  
4 put his hands out the window where we can see them.  
5 When he doesn't comply with the instructions, the  
6 escalation comes from the suspect, not the officers.

7 Q. So when the law says that police officers  
8 are to use means to avoid deadly force, do you see no  
9 way that they could have done that in this case?

10 MR. BROWN: Objection. Form.

11 THE DEPONENT: I'm not sure what you're  
12 suggesting the law would require these officers to do  
13 that would eliminate the threat that Mr. Hill posed.

14 BY MS. ASKEW:

15 Q. Well, before they approached Mr. Hill,  
16 what was the threat, other than the traffic?

17 A. Presented from Mr. Hill?

18 Q. Yes.

19 A. At that point was unknown.

20 Q. Well, what was known was that Bone said  
21 he did not believe he was armed. That's what Bone  
22 testified in his deposition.

23 MR. BROWN: Objection. Form.

24 BY MS. ASKEW:

25 Q. So what was the risk?

1           A.     It was unknown.  So what you have is a  
2     man who is willing to turn his lights off and drive on  
3     an interstate at 120 miles an hour to try to get away  
4     from the police.  That is Mr. Hill putting his own life  
5     in danger to try to escape from the police.  That's  
6     great desperation.

7           Q.     But I think -- didn't you cite a case  
8     where a person was shot in the back for fleeing and  
9     they didn't have a gun?

10          A.     Did I cite that case?

11          Q.     Didn't you?  I thought it was in your --  
12     I think you cite that as one of the things you  
13     reviewed.

14          A.     Are you referring to Tennessee v. Garner?  
15     I don't think I cited that case here.

16          Q.     Maybe that's the wrong one I read.  Just  
17     because a person flees doesn't mean you get to shoot  
18     him; is that correct?  You agree with me?

19          A.     Absolutely.

20          Q.     So, the scenario that we have is,  
21     someone, who is Trooper Bone and Trooper Layton are  
22     concerned about -- best case -- that he might jump out  
23     the car and run?

24                   MR. BROWN:  Objection.  Form.

25     BY MS. ASKEW:

1 Q. Based on what you've seen in this case.

2 A. As an experienced police officer, I know  
3 that it was a concern in their mind that Mr. Hill may  
4 run.

5 Q. Okay. So, if somebody runs and they are  
6 unarmed, does that mean you get to shoot them?

7 A. No.

8 Q. If you have the license plate of the  
9 vehicle, was there some urgency?

10 MR. BROWN: Objection to form.

11 THE DEPONENT: Urgency to what?

12 BY MS. ASKEW:

13 Q. To approach the vehicle with guns drawn,  
14 even if they thought Mr. Hill was going to run on foot.

15 A. For clarification, are we saying that --  
16 are you suggesting the only reason they approached him  
17 with guns drawn is because he may flee on foot? That's  
18 not how I saw it.

19 Q. Okay. So where was the danger and what  
20 was the concern with the officers as to why they got  
21 out of the vehicle and approached Mr. Hill with their  
22 guns drawn?

23 A. So, to back up just a little bit, you  
24 have this desperate life-threatening attempt to escape.  
25 So we have a person who is unconcerned about human

1 life.

2 Q. Whose life was that?

3 A. Mr. Hill. He was unconcerned for his own  
4 life enough to try to escape from the police. Then we  
5 have the throwing motion as he's pulling over.

6 Q. Which you don't know what that was.

7 A. That is a suspicion factor for police. A  
8 hindsight revelation as to whether or not anything was  
9 thrown -- that's not known to the police at the time  
10 they observed the motion -- is not part of their  
11 analysis. So it's a suspicion factor. I'm not saying  
12 it's illegal. I'm saying that it raises additional  
13 suspicions in the mind of the officers because it's an  
14 unusual behavior at that point in time.

15 So then you have now the immobilized  
16 vehicle. We're dealing with a person who is  
17 disregarding his own life whose been noncompliant to  
18 the police to that point, and we cannot see his hands  
19 because he's in the vehicle, and we cannot see his  
20 hands. So as a precautionary measure, there's nothing  
21 wrong with displaying a weapon. I think the vast  
22 majority of officers would display their weapon under  
23 those circumstances.

24 Q. But Trooper Bone said he didn't believe  
25 he was armed.



1 MR. BROWN: Objection to form.

2 BY MS. ASKEW:

3 Q. You don't think that's significant?

4 A. First of all, I was not given that  
5 information. In my view, I don't think that it would  
6 matter because, as a precautionary measure, what  
7 Trooper Bone doesn't know, as opposed to what he does  
8 know, puts it in the unknown category.

9 MR. BROWN: I'm going to further object  
10 to that question on offering facts that were not  
11 testified to.

12 BY MS. ASKEW:

13 Q. So, if Trooper Bone says that he exited  
14 the vehicle with his gun drawn because of his safety;  
15 is that reasonable?

16 MR. BROWN: Objection to form.

17 THE DEPONENT: Yes.

18 BY MS. ASKEW:

19 Q. What would be his safety?

20 A. The fact that you have a person who  
21 disregards his own life, who's noncompliant, whose  
22 hands that we cannot see -- with his level of  
23 desperation, we do not know what he is willing to do to  
24 continue his attempt to escape.

25 Q. So let's assume that you're concerned

1 about Mr. Hill getting out the car and running. What  
2 is the urgency?

3 MR. BROWN: Objection. Form.

4 THE DEPONENT: I would not want him -- I  
5 would assume, as a police officer, that he would run  
6 through the woods and possibly out on the other side  
7 where vehicles were traveling at night. I wouldn't  
8 want him to do that, nor would I want him to get across  
9 the interstate into more woods where we were likely to  
10 lose him. So the urgency would be to apprehend a  
11 violator.

12 BY MS. ASKEW:

13 Q. But you got his license plate.

14 A. But we don't know if that's the same  
15 person that it's registered to. It's not uncommon for  
16 officers to find somebody driving a vehicle that  
17 doesn't belong to them. So they'd never confirmed who  
18 he was.

19 Q. Mr. Bartels, we have both the troopers at  
20 the car with their guns and they started to shoot --

21 A. Yes. I think that might be where we left  
22 off.

23 Q. Can you bring it up?

24 (Video played.)

25 THE DEPONENT: That is immediately before

1 they shoot at 5:15.

2 BY MS. ASKEW:

3 Q. And where are the officers located? You  
4 can cite what's --

5 A. I see -- again at 5:15, Trooper Bone is  
6 in front of Trooper Layton, but he is slightly back and  
7 off of the car at an angle from the driver's side.  
8 He's a little bit behind the driver's door, and a  
9 little bit off of the vehicle moving backwards.

10 Trooper Layton is -- it looks like  
11 slightly forward of the driver's door -- out from the  
12 vehicle. It's hard to tell his distance, but he looks  
13 like he's up here at the top of the embankment, from  
14 that.

15 Q. Okay.

16 A. When I say that, I was referring to  
17 Exhibit 4.

18 Q. I'm giving you the autopsy report.

19 (Whereupon, Deposition Exhibit No. 6 was  
20 marked.)

21 BY MS. ASKEW:

22 Q. Would you look at the Report of Autopsy.  
23 At the top it says page 4.

24 A. Yes, ma'am.

25 Q. And would you look down to where it says

1 summary. Could you read that for us?

2 A. I'll try. "The decedent was an  
3 18-year-old male who was involved in a vehicular  
4 pursuit with police, and was subsequently shot during  
5 the incident. He was pronounced dead at the scene.  
6 The examination showed gunshot wounds involving the  
7 face, neck, and left hand. The gunshot wound to the  
8 neck was associated with a lethal injury. There was no  
9 significant natural disease."

10 Q. That's fine. Thanks. Now you have  
11 experience, do you not, in firearm training?

12 A. Yes.

13 Q. Tell me, what kind of experience do you  
14 have in that regard?

15 A. Everything from basic marksmanship, safe  
16 firearms handling, and tactics while using a firearm  
17 such as how to properly shoot from cover, how to shoot  
18 while moving, shooting from different positions --  
19 unusual positions that police officers may find  
20 themselves in, such as if they get knocked down.  
21 Recognizing threats. Making decisions about when to  
22 shoot. It's pretty extensive.

23 Q. Are you able to determine the position of  
24 a person when they -- from where they are shot? Could,  
25 for example -- are you skilled enough or do you know

1 from your firearm trainings, can you tell us the  
2 position of Mr. Hill in terms of being shot in the  
3 hand, left side of his face and back of his neck? Are  
4 you in a position to say where he was positioned in the  
5 vehicle based on -- I mean, I'm just asking. I'm not  
6 saying you have to. I'm just asking, are you in a  
7 position to tell us that?

8 A. I did not look at that as far as bullet  
9 path, travel, et cetera. That's not something I looked  
10 at, no.

11 Q. Are you skilled enough to do that or  
12 nobody asked you that?

13 A. I wouldn't say that I have a developed  
14 expertise in it, but it's something that I think  
15 anybody experienced with firearms and crime scenes  
16 could gather information on.

17 Q. But nobody asked you to render an opinion  
18 on that?

19 A. No.

20 Q. Fair enough. Thanks.

21 MS. ASKEW: What time do we have?

22 THE COURT REPORTER: We're at 3:32.

23 MS. ASKEW: It's 3:32. Not too bad.

24 Give me a minute. I'm almost there. Let me go meet  
25 with my client for a second, guys.

1 (Pause in proceedings.)

2 MS. ASKEW: Okay.

3 BY MS. ASKEW:

4 Q. Let's talk about when they removed  
5 Mr. Hill and laid him on the ground. Trooper Bone  
6 checked Mr. Hill for a pulse, but cannot detect one.  
7 Then you go on to talk about providing some emergency  
8 medical service for him and why you didn't think they  
9 had to.

10 A. Can you tell me --

11 Q. The last paragraph. Do you want to read  
12 that for us?

13 A. "Police receive basic first aid and CPR  
14 training in the academy. In the summary of Trooper  
15 Layton's statement, Trooper Layton articulated that he  
16 was concerned performing CPR would pump out the  
17 remaining blood. Many agencies now provide additional  
18 training on the application of a tourniquet and chest  
19 seals when appropriate. There is no training or other  
20 equipment provided that enables police to treat someone  
21 with catastrophic gunshot injuries to the face and the  
22 base of the neck where there's loss of consciousness  
23 and no detectible pulse. Requesting EMS as quickly as  
24 possible, as was done here, is all the police can do to  
25 assist."

1           Q.    Are you familiar with what Trooper Layton  
2 was saying with reference to performing CPR?

3           A.    Yes, I understand what he was saying.

4           Q.    You understand what he was saying. Is  
5 that what was taught? When they teach you CPR, when  
6 you have CPR training, what did they teach you?

7           A.    I've never heard that addressed in CPR  
8 training. Normally, CPR training addresses somebody  
9 who is an unconscious victim where they're not choking,  
10 and you do the whole call 9-1-1, secure the scene, and  
11 you start going through your standard checking the  
12 airway, and so on and so forth. I've never taken a CPR  
13 class where they discussed CPR after an incident such  
14 as this.

15          Q.    So this would be a first thing for you?

16          A.    Yes.

17          Q.    You have to pretty much rely upon what  
18 Layton tells you?

19          A.    As far as what he did?

20          Q.    Yes.

21          A.    Yes.

22                MS. ASKEW: Thank you.

23                I think I'm done.

24                MR. BROWN: I think I have a couple of  
25 questions.

1 Can you give me Exhibit 3?

2

3 EXAMINATION

4 BY MR. BROWN:

5 Q. Let us direct your attention to  
6 Exhibit 3. So you were asked questions about the  
7 location of the police officer's cruiser there; right?

8 A. Yes.

9 Q. So is it fair to say that the cruiser is  
10 facing toward Mr. Hill's vehicle?

11 A. Yes.

12 Q. Is there some reason that an officer  
13 might do that?

14 A. Yes. In the dark, you want to put as  
15 much light on the vehicle as possible. Even what we  
16 would refer to as the standard format where you'd pull  
17 up behind the vehicle, you're focusing on the top light  
18 bar. You have what are called takedown lights, and  
19 they're essentially spotlights that shine forward. You  
20 have a spotlight outside the driver's door that most  
21 people are probably familiar with seeing on many police  
22 cars, and then you have the vehicle's headlights that  
23 also offer illumination.

24 Q. Now, what about the position of Mr.  
25 Hill's vehicle in comparison with the police cruiser,



1 as far as their elevation? Is there a difference in  
2 elevation?

3 A. Yes. Mr. Hill's vehicle was lower.

4 Q. Would that factor into where you might  
5 have placed the cruiser or whether you would, as  
6 opposing counsel had questioned you about, take cover  
7 at the vehicle when you initially stopped the cruiser?

8 A. Well --

9 Q. Just to clarify, the difference in  
10 elevation of vehicles and possibly the sidelines?

11 A. I think that what I see here is that that  
12 discrepancy creates an issue for an officer where they  
13 have to decide on their visibility. So, if an officer  
14 needs to see differently than they can, then they have  
15 to decide whether or not repositioning is advantageous,  
16 or if the risks outweigh the rewards. So, the trooper  
17 has to -- or the officer has to figure out, based on  
18 that difference -- because normally on the same street  
19 level, it's a lot easier to see. But here, that's not  
20 the case.

21 Q. The training that the officers receive  
22 would allow them discretion to make judgment calls  
23 about where to get a vantage point?

24 A. I think that part of what I've tried to  
25 explain throughout a lot of my answers is the fact that

1 almost all of police work, that's not specifically  
2 directed by policy, involves discretionary  
3 decisionmaking to include tactics. So, whenever  
4 there's a change in what we would call a normal or  
5 standard set of circumstances, an officer has to make  
6 decisions on how they're going to adjust for that. So,  
7 yes.

8 Q. Earlier you testified that there were  
9 three clear commands to get out of the vehicle; is that  
10 right?

11 A. Yes.

12 Q. After those three commands, had Mr. Hill  
13 exited the vehicle?

14 A. No.

15 Q. You testified earlier that at the 4:57,  
16 Layton issued a command which followed Mr. Hill  
17 indicating his door didn't open; is that right?

18 A. Yes.

19 Q. And do you remember what that command  
20 was? We can look at the video again if you need to.

21 A. I think I can refer to my notes real  
22 quick, that way Ms. Benton doesn't have to worry about  
23 the video.

24 Q. I'm sorry. If that's better.

25 A. In what I've transcribed from watching

1 the video, the first time Mr. Hill says my door doesn't  
2 open, immediately following that is Trooper Bone's  
3 command of, "Put your hands up."

4 Q. So, were there any commands that you  
5 heard, after he indicated his door doesn't open, to  
6 exit the vehicle?

7 A. No.

8 Q. You testified earlier that you had never  
9 seen -- and I'm shifting gears. You testified that  
10 you'd never seen an incident the same as this?

11 A. Correct.

12 Q. What did you mean by that?

13 A. I mean that, as similar as some incidents  
14 may be to each other, there are unique differences that  
15 make an officer's decisions what they are. That's  
16 recognized in my use of force training, and I want my  
17 officers to understand that the Supreme Court instructs  
18 that each is to be evaluated on its own merit, facts  
19 and circumstances.

20 Q. So, you've seen more than one incident  
21 involving the use of force?

22 A. Yes.

23 Q. Can you give an approximate estimation?  
24 More than a hundred?

25 A. Yes.